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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,982	03/25/2004	Carl A. Caspers	55508-296809	7038
25764	7590	07/10/2007	EXAMINER	
FAEGRE & BENSON LLP PATENT DOCKETING 2200 WELLS FARGO CENTER 90 SOUTH SEVENTH STREET MINNEAPOLIS, MN 55402-3901			WILLSE, DAVID H	
		ART UNIT	PAPER NUMBER	
		3738		
		MAIL DATE	DELIVERY MODE	
		07/10/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/808,982	CASPERS, CARL A.
	Examiner	Art Unit
	Dave Willse	3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 04 May 2007.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>6-4-07 (2 pages)</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ |

The Information Disclosure Statement of June 4, 2007, cannot be considered because of failure to comply with 37 CFR 1.97(c). The date that the correction is filed is the date of the Information Disclosure Statement for purposes of determining compliance with 37 CFR 1.97 (MPEP § 609.05(a)).

In the Amendment of May 4, 2007, claim 1 is inaccurately rewritten under 37 CFR 1.121(c) in that the order of appearance of the “means for applying” and the “means for supporting” has been reversed, and the deletion of “when the residual limb is received within the receiving means” (original claim 1, lines 5-6) is not indicated via strike-through. Nevertheless, said Amendment *has* been entered and considered.

The Terminal Disclaimer filed on May 4, 2007, disclaiming the terminal portion of any patent granted on this application that would extend beyond the expiration date of U.S. patent numbers 6,726,726; 6,926,742; and 6,974,484 has been reviewed and is accepted. The Terminal Disclaimer has been recorded.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1-12, 15, 16, and 18-20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Caspers, US 5,735,906, which discloses a socket or means **60B, 108, 52** for receiving a portion of a residual limb, a vacuum pump **72**, a polyurethane liner **92** (column 6, lines 47-55), a thin knitted nylon sheath **90** for evenly distributing the vacuum (column 6, lines 36-46), and means **80** and **84** for reducing loss of vacuum. The regulator means (column 6, lines 24-29) is certainly capable of reducing vacuum during all phases of the gait cycle, and the ordinary practitioner would have inferred such a function from the explicit need to *maintain* the vacuum (column 7, lines 20-37). Regarding claim 4 and others, a vacuum reservoir is inherently created by the vacuum source **70** in the vacuum tube **76** and in other chambers or enclosed spaces in communication with and between said tube and the pump **72**. Regarding claim 10 and others, the components **60B, 108, and 52** can collectively be viewed as a single, substantially rigid (column 8, lines 38-40) socket; alternatively, the socket **52** in other disclosed embodiments is the only substantially rigid socket, because socket **60** or **60A** is *flexible* (column 7, line 25).

Claims 13, 14, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caspers, US 5,735,906. Regarding claims 13 and 14, weight actuated pumps were well known in the art and would have been obvious in order to eliminate the need for an external power source. Regarding claim 17, liners with integral seals were likewise common in the art and would have been obvious in order to supplement the seal means **84** or to simplify the donning and doffing procedures by eliminating the need for elements **84** and **86**.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply

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is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave Willse, whose telephone number is 571-272-4762 and who is generally available Monday, Tuesday, and Thursday, and sometimes on Wednesday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott, can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Dave Willse
Primary Examiner
Art Unit 3738